

HOUSE BILL 902

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R5
HB 757/03 - JUD

2004 Regular Session
4r1230

By: **Delegates Petzold, Franchot, Jones, Kaiser, and Menes**
Introduced and read first time: February 11, 2004
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Moving Violations - Life-Threatening Injury or Death - Notice to Appear**

3 FOR the purpose of providing that a person issued a traffic citation for a moving
4 violation contributing to an accident that results in life-threatening injury to or
5 death of another person may not comply with a notice to appear in court by
6 prepayment of a fine and must appear in person; providing that, if a person who
7 receives a certain citation fails to appear in court, the court may issue a warrant
8 for the person's arrest or notify the Motor Vehicle Administration of the
9 noncompliance within a certain period of time; requiring a certain traffic
10 citation to include a certain notice; and generally relating to moving violations
11 contributing to accidents resulting in life-threatening injury or death.

12 BY repealing and reenacting, with amendments,
13 Article - Transportation
14 Section 26-201 and 26-204
15 Annotated Code of Maryland
16 (2002 Replacement Volume and 2003 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Transportation**

20 26-201.

21 (a) A police officer may charge a person with a violation of any of the following,
22 if the officer has probable cause to believe that the person has committed or is
23 committing the violation:

24 (1) The Maryland Vehicle Law, including any rule or regulation adopted
25 under any of its provisions;

26 (2) A traffic law or ordinance of any local authority;

27 (3) Title 9, Subtitle 2 of the Tax - General Article;

1 (4) Title 9, Subtitle 3 of the Tax - General Article; or

2 (5) Title 10, Subtitle 4 of the Business Regulation Article.

3 (b) A police officer who charges a person under this section shall issue a
4 written traffic citation to the person charged.

5 (c) A traffic citation issued to a person under this section shall contain:

6 (1) A notice to appear in court, including a notice that, if the offense is
7 not punishable by incarceration, the person may request a hearing regarding
8 sentencing and disposition in lieu of a trial as provided in § 26-204(b)(2) of this
9 subtitle;

10 (2) The name and address of the person;

11 (3) The number of the person's license to drive, if applicable;

12 (4) The State registration number of the vehicle, if applicable;

13 (5) The violation charged;

14 (6) Unless otherwise to be determined by the court, the time when and
15 place where the person is required to appear in court;

16 (7) A statement acknowledging receipt of the citation, to be signed by the
17 person;

18 (8) On the side of the citation to be signed by the person, a clear and
19 conspicuous statement that:

20 (i) The signing of the citation by the person does not constitute an
21 admission of guilt; and

22 (ii) The failure to sign may subject the person to arrest; [and]

23 (9) IF THE CITATION IS BEING ISSUED FOR A MOVING VIOLATION THAT
24 CONTRIBUTES TO AN ACCIDENT THAT RESULTS IN LIFE-THREATENING INJURY TO
25 OR DEATH OF ANOTHER PERSON, A STATEMENT THAT THE NOTICE TO APPEAR IN
26 COURT MAY NOT BE COMPLIED WITH BY THE PREPAYMENT OF THE FINE; AND

27 (10) Any other necessary information.

28 (d) Unless the person charged demands an earlier hearing, a time specified in
29 the notice to appear shall be at least 5 days after the alleged violation.

30 (e) A place specified in the notice to appear shall be before a judge of the
31 District Court, as specified in § 26-401 of this title.

32 (f) An officer who discovers a vehicle stopped, standing, or parked in violation
33 of § 21-1003 of this article shall:

1 (1) Deliver a citation to the driver or, if the vehicle is unattended, attach
2 a citation to the vehicle in a conspicuous place; and

3 (2) Keep a copy of the citation, bearing his certification under penalty of
4 perjury that the facts stated in the citation are true.

5 (g) (1) A law enforcement officer who discovers a motor vehicle parked in
6 violation of § 13-402 of this article shall:

7 (i) Deliver a citation to the driver or, if the motor vehicle is
8 unattended, attach a citation to the motor vehicle in a conspicuous place; and

9 (ii) Keep a copy of the citation, bearing the law enforcement
10 officer's certification under penalty of perjury that the facts stated in the citation are
11 true.

12 (2) In the absence of the driver, the owner of the motor vehicle is
13 presumed to be the person receiving the citation or warning.

14 26-204.

15 (a) A person shall comply with the notice to appear contained:

16 (1) In a traffic citation issued to the person under this subtitle; or

17 (2) In a summons, other writ, or a trial notice issued by either the
18 District Court or a circuit court in an action on a traffic citation.

19 (b) (1) For purposes of this section AND SUBJECT TO PARAGRAPH (3) OF THIS
20 SUBSECTION, the person may comply with the notice to appear by:

21 (i) Appearance in person;

22 (ii) Appearance by counsel; or

23 (iii) Payment of the fine, if provided for in the citation.

24 (2) (i) Subject to the provisions of subparagraph (iii) of this paragraph,
25 a person who intends to comply with the notice to appear contained in a traffic
26 citation by appearance in person or by counsel may return a copy of the citation to the
27 District Court within the time allowed for payment of the fine indicating in the
28 appropriate space on the citation that the person:

29 1. Does not dispute the truth of the facts as alleged in the
30 citation; and

31 2. Requests, in lieu of a trial, a hearing before the Court
32 regarding sentencing and disposition.

33 (ii) A person who requests a hearing under the provisions of
34 subparagraph (i) of this paragraph waives:

1 1. Any right to a trial of the facts as alleged in the citation;
2 and

3 2. Any right to compel the appearance of the law
4 enforcement officer who issued the citation.

5 (iii) A person may request a hearing under the provisions of
6 subparagraph (i) of this paragraph only if the traffic citation is for an offense that is
7 not punishable by incarceration.

8 (3) IF A TRAFFIC CITATION IS ISSUED FOR A MOVING VIOLATION THAT
9 CONTRIBUTES TO AN ACCIDENT THAT RESULTS IN LIFE-THREATENING INJURY TO
10 OR DEATH OF ANOTHER PERSON, THE PERSON ISSUED THE CITATION:

11 (I) MAY NOT COMPLY WITH THE NOTICE TO APPEAR BY
12 PREPAYMENT OF A FINE UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION; AND

13 (II) SHALL APPEAR IN COURT IN PERSON.

14 (c) If a person fails to comply with the notice to appear, the District Court or a
15 circuit court may:

16 (1) Except as provided in subsection (f) of this section, issue a warrant
17 for the person's arrest; or

18 (2) After 5 days, notify the Administration of the person's
19 noncompliance.

20 (d) On receipt of a notice of noncompliance from the District Court or a circuit
21 court, the Administration shall notify the person that the person's driving privileges
22 shall be suspended unless, by the end of the 15th day after the date on which the
23 notice is mailed, the person:

24 (1) Pays the fine on the original charge as provided for in the original
25 citations; or

26 (2) Posts bond or a penalty deposit and requests a new date for a trial or
27 a hearing on sentencing and disposition.

28 (e) If a person fails to pay the fine or post the bond or penalty deposit under
29 subsection (d) of this section, the Administration may suspend the driving privileges
30 of the person.

31 (f) (1) [When] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
32 SUBSECTION, WHEN the offense is not punishable by incarceration, if the court
33 notifies the Administration of the person's noncompliance under subsection (c) of this
34 section, a warrant may not be issued for the person under this section until 20 days
35 after the original trial date.

1 (2) THIS SUBSECTION DOES NOT APPLY WHEN THE OFFENSE IS A
2 MOVING VIOLATION THAT CONTRIBUTES TO AN ACCIDENT THAT RESULTS IN
3 LIFE-THREATENING INJURY TO OR DEATH OF ANOTHER PERSON.

4 (g) With the cooperation of the District Court and circuit courts, the
5 Administration shall develop procedures to carry out those provisions of this section
6 that relate to the suspension of driving privileges.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect October 1, 2004.